

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Appeal for denial of 2012 funding by USAC Schools
and Libraries Division to the Thorp (WI) School
District (BEN 133397)

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CC Docket No. 02-6

—APPEAL—

**REQUEST FOR REVIEW AND WAIVER OF THE: (1) 60 DAY APPEAL DEADLINE,
AND (2) A DECISION OF THE UNIVERSAL SERVICE ADMINISTRATOR**

Appellant:

Adam Johnson
Thorp School District
605 N Clark St.
Thorp, WI 54771 (BEN 133397)
Phone: (715) 669-5548; Fax: (715) 669-5403
ajohnson@thorp.k12.wi.us

To Whom It May Concern:

This appeal addresses two issues from the 2012 E-rate funding year. (1) A request for review and waiver of the 60 day appeal deadline; and (2) A request for review and waiver of a decision of the universal service administrator to deny one of our funding requests in total and deny another request in-part.

(1) Request for review and waiver of the 60 day appeal deadline.

The Thorp WI School District is appealing the denial and reduction of 2012 funding for the two funding requests referenced below. The denial and reduction was in a funding commitment decision letter (FCDL) dated July 10, 2012. We realize this appeal is well past the

60 day FCC appeal deadline but we hope the following circumstances will explain why we are seeking a waiver of the deadline. In part because of school district budget constraints, on July 1, 2012, our E-rate and technology coordinator, Adam Johnson, assumed responsibility for managing technology for both our district and a neighboring school district. In serving two districts Mr. Johnson's time is limited and on July 1 his E-rate responsibilities were transferred to Renee Wagner, the district's bookkeeper. Ms. Wagner had no previous experience with the E-rate program.

In mid-October our regional education service agency queried the E-rate Central website (<http://www.e-ratecentral.com/us/stateInformation.asp?state=WI>) and saw that we had been funded in wave 1 on July 10, 2012. The website also showed that the Charter funding request for \$11,550 had been denied and our WiscNet request had been reduced by \$1,759.45. Ms. Wagner and other district staff then looked through all the documentation and correspondence received since July 10 but could not find the Funding Commitment Decision Letter (FCDL). We then contacted USAC on October 16 and received a copy of the FCDL. We also called the Program Integrity Assurance (PIA) IA reviewer, Vibhuti Panchal, to get more information on the funding denial and funding reduction. We left a message but never heard back. Considering these circumstances, we respectfully request that the FCC waive the 60 day appeal deadline. If this is granted we then ask Commission staff to review and act on our two funding appeals described below.

(2) A decision of the universal service administrator.

Below is the information and justification for our appeal of two decisions by the universal service administrator.

(2A) Appeal for denial of funding for the following request:

FRN	2327096
Form 470	496760000998742
Form 471	855390
Category of service	Telecommunications Services
Service provider	Charter Fiberlink, LLC (SPIN #143005761)
Funding status	Funding denied in total (\$11,550 with discount)

USAC reason for denying the funding request:

This FRN is a request for Telecommunications Service from a service provider that is not an eligible telecommunications carrier.

District's rebuttal of USAC's reason for denying the request:

On May 23, 2012, we received a letter from PIA (Vibhuti Panchal) stating that the provider for this request, Charter Fiberlink, LLC (SPIN #143005761), was not an eligible telecommunications carrier. Following advice in the letter we made a correction on our Receipt Acknowledgment Letter (RAL) to change to Charter Fiberlink CCO, LLC (SPIN #143027625), an authorized provider of telecommunication services. We emailed the corrected RAL to PIA on June 8, 2012, and received acknowledge that our email was received and opened on June 8.¹ We heard nothing back from PIA and thus assumed our RAL SPIN change request satisfied the need to select a vendor authorized to provide telecommunication services. Therefore, we were both surprised and dismayed to see that the FCDL denied funding for this request. We very much believe that we fully complied with PIA's inquiry and thus ask the Commission to find in our favor and remit this funding request to USAC for further processing.

(2B) Appeal for reduced funding for the following request:

FRN:	2327111
Form 470	496760000998742
Form 471	855390
Category of service	Internet Access
Service provider	WiscNet (SPIN #143004351)
Funding status	Funding reduced in part (\$1,759.45 with discount)

USAC reason for denying the funding request:

The amount of the funding request was changed from a non-recurring charge of \$2,285 to \$0 to remove the unsubstantiated one time charge.

District's rebuttal of USAC's reason for denying the request:

Shortly after the 2012 Form 471 window closed on March 21, 2012, Robert Bocher, State E-rate Coordinator with the Wisconsin Department of Public Instruction, realized that over sixty districts were requesting switches as part of their Internet access requests from WiscNet, their Internet provider.² (Most of these requests were for the Cisco ME 3400E Series Ethernet Access Switch for \$2,285.) All requests for these switches pass the "Tennessee Test" and thus are

¹ Appendix A has a copy of the corrected RAL and email acknowledgement from PIA that the RAL was received.

² Most switch requests are a result of a broader statewide effort to increase school district bandwidth to at least 100mbps. The older switches cannot accommodate the increased bandwidth. (Note: While Cisco calls this a "switch", it is being used in the schools as an Internet router.)

eligible as Priority 1. As PIA staff started reviewing school WiscNet requests it was asking each school district to document the Priority 1 eligibility of the switch. Realizing this, Mr. Bocher then worked with Donna Barrett, Wisconsin's PIA Manager, to help streamline the review process by providing documentation from WiscNet supporting the Priority 1 eligibility of the switches for the sixty districts. The email with this documentation was sent to Ms Barrett on May 15, 2012, 2:13pm.³ *Within an hour Ms. Barrett sent Mr. Bocher a follow-up email stating, "Thank you Bob. I will pass the information along to my team."* However because the request to fund the switch was denied, the documentation must not have reached Vibhuti Panchal, the PIA reviewer who processed the Thorp district's application.

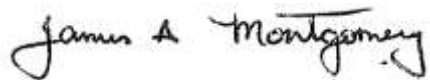
In Conclusion

We hope we have provided you with sufficient information to grant our request to waive the appeal deadline and to further direct USAC to proceed with reviewing our two funding requests. In relation to our funding requests, we especially think—as documented in this appeal—that we and Mr. Bocher provided PIA with sufficient documentation needed to approve the Charter Fiberlink funding request and the WiscNet funding request.

We are just a small school district in northern Wisconsin and have had to manage reductions in state aid and other pressures on our limited budget the past several years. Thus we very much appreciate the E-rate program. In moving forward we will take extra measures to ensure that we meet all program requirements and deadlines.

Thank you for consideration of our appeal. Please contact me or Mr. Adam Johnson if you have any questions.⁴

Sincerely,



James Montgomery, District Administrator
(715) 669-5548

³ See attached Appendix B, emails 1-3. Mr. Bocher sent Ms Barrett an email on October 18, 2012, seeking information on why the Charter funding request was denied and the WiscNet request reduced. Ms Barrett responded the same day (email #5) indicating she had not received the needed documentation for either funding request. With all due respect, documentation in Appendix A supports the Charter appeal and Appendix B (email #3) shows that documentation was sent to Ms. Barrett to support the E-rate eligibility of the district's request for the Cisco switch.

⁴ I have given Robert Bocher, State E-rate Coordinator with the Wisconsin Department of Public Instruction, permission to file this appeal on our behalf.

Appendix A: Corrected Receipt Acknowledgement Letter (RAL) showing corrected SPIN and email receipt from PIA showing RAL was received.

Form 471 855390 RAL Funding Requests Report		
FRN: 2327096		
IF YOU WISH TO CANCEL THIS FRN, PLEASE CHECK HERE _____		
Item #	Data Entered on FCC Form 471	Make Corrections Here
11. Category of Service	Telecommunications Service	
12. 470 App#	496760000998742	
13. SPIN	143005761 → 143027625	
14. Service Provider Name	Charter Fiberlink, LLC	
15b. Contract Number	201202081980778	
16a. Billing Account Number	8245 11 795 0004077	
16b. Multiple Billing Account Numbers	N	
18. Contract Award Date	03/12/2012	
19. Service Start Date	07/01/2012	
20a. Service End Date		
20b. Contract Expiration Date	06/30/2017	
22. Block 4 Entity or Worksheet No	1453776	
23a. Monthly Charges	\$1,250.00	
23b. Ineligible Monthly Amt	\$0.00	
23c. Eligible Monthly Amt	\$1,250.00	
23d. Number of months of service	12	
23e. Annual Pre-discount Amount for eligible recurring charges	\$15,000.00	Calculated - Not Input
23f. Annual Non-Recurring (One-Time) Charges	\$0.00	
23g. Ineligible Non-Recurring Amount	\$0.00	
23h. Annual Pre-discount Amount for eligible Non-Recurring charges	\$0.00	Calculated - Not Input
23i. Total Pre-discount Amt	\$15,000.00	Calculated - Not Input
23j. Discount from Block 4	77	See Block 4 Above
23k. Funding Commitment Request	\$11,550.00	Calculated - Not Input
25f. Service provider assistance with funding	No	

471 RAL

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03/20/2012

NEHMC0300234

01079

Renee Wagner

From: Panchal, Vibhuti <vpancha@sl.universalservice.org>
To: Renee Wagner
Sent: Friday, June 08, 2012 1:51 PM
Subject: Read: Thorp School District #133397 Application #855390

Your message

To:
Subject: Thorp School District #133397 Application #855390
Sent: Friday, June 08, 2012 1:50:40 PM (UTC-06:00) Central Time (US & Canada)
was read on Friday, June 08, 2012 1:50:32 PM (UTC-06:00) Central Time (US & Canada).

The six emails below are in chronological order. Key sections in the emails are highlighted in red but none of the text has been changed from the originals. Any questions on this documentation should be directed to:

[illegible]

From: Bocher, Robert DPI [<mailto:Robert.Bocher@dpi.wi.gov>]
Sent: Tuesday, May 15, 2012 1:31 PM
To: Barrett, Donna
Cc: Sanders, Stephen DPI
Subject: PIA Router Questions for WiscNet

About 67 of the WI school districts that get their Internet access from WiscNet (our state's R&E network) are requesting E-rate on a router/switch as part of Internet access. This router/switch is owned by WiscNet and meets all P1 requirements of the Tennessee test. PIA is now starting to contact these schools (see email below) asking about the router/switch.

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Bob Bocher, Technology Consultant
Wisconsin Dept. of Public Instruction
Division for Libraries and Technology
Madison, WI 53707-7841
608-266-2127 -- robert.bocher@dpi.wi.gov

NOTE: I am retiring this Friday, May 18. While I may come back part-time in the fall and work on the E-rate, after May 18 please contact my colleague Steve Sanders with any E-rate issues (Stephen.Sanders@dpi.wi.gov).

-Bob

[illegible]

Email #4

From: Bocher, Robert DPI [<mailto:Robert.Bocher@dpi.wi.gov>]

Sent: Thursday, October 18, 2012 12:15 PM

To: Barrett, Donna

Cc: DeBacher, John K. DPI

Subject: Bocher Back as WI E-rate Support Manager; Issue With Thorp SD

Hello Donna:

Two items to note:

1) As I note in the May 15 email below, I retired from the WI Dept. of Public Instruction last May but (as also noted below) I have been rehired by the department to work on the E-rate through June 30, 2013.

2) Here is the first issue I have for you. The Thorp School District's FCDL (attached) had one FRN reduced and another FRN denied as follows:

-- WiscNet FRN #2327111 was reduced. The cost for the Cisco switch (\$2,285.00) was removed. In the emails below and in the attached documents I provide documentation that this switch passes the TN test and thus qualifies for a P1 discount. See the attached Excel file that shows Thorp SD (#line 284) as being one of the districts requesting the switch. In a Tue 5/15/2012 1:22pm email to me you indicated that you'd pass this information to your PIA review team. But the info must not have reached the Thorp reviewer (Vibhuti Panchal). Also, the Thorp response (attached) to the PIA query (also attached) clearly indicates that the switch is owned and managed by WiscNet.

-- Charter FRN #2327096 was denied. This was denied in full because the SPIN provided on the district's 471 was incorrect. **The Thorp response did make a correction to the SPIN.**

After Thorp's response to the PIA query it has no record of any follow-up questions from the PIA. Thus the dist. assumed it had provided all the needed documentation.

Now complicating this is that in July there was a change in the E-rate coordinator for the district and the new coordinator only realized last week that there was both a funding reduction and a denial. Obviously it is now past the 60 day appeal window. So the bottom line here is:

-- Considering that proper documentation was sent to PIA justifying the funding that was denied for the above two requests, can you take any action now to correct this? OR,

Email #6

From: Bocher, Robert DPI

Sent: Monday, October 22, 2012 1:01 PM

To: 'Barrett, Donna'

Cc: DeBacher, John K. DPI

Subject: RE: Bocher Back as WI E-rate Support Manager; Issue With Thorp SD

Donna:

Thanks for the update. For the Charter FRN #2327096 that was denied, I'll work with the school dist. to file an appeal, likely directly to the FCC. For the WiscNet FRN #2327111 that was reduced to remove the cost for the Cisco switch (\$2,285.00), **I do think the three attached documents to the May 15, 2012 2:13PM email provide the info you sought.*** They are:

2012 E-rate WiscNet Members.xlsx -- I was remiss in not noting that the schools requesting the switch start on line #227 of this Excel file.

PIA WiscNet Router Questions.doc -- Vendor documentation (memo from WiscNet) to support the one-time charge.

Router Diagram for PIA-E-rate.pdf -- Vendor documentation (network diagram from WiscNet) to support the one-time charge.

But since the funding denial has already been issued I'll work with the dist. to file an appeal on this FRN too.

-Bob

* In checking the DRT, most of the schools requesting the switch have been funded. Thorp SD is the only one thus far denied.

[illegible]